

Appln No. 09/637,764

Amdt date March 30, 2005

Reply to Office action of October 4, 2004

REMARKS/ARGUMENTS

The above amendments and these remarks are in response to the Office action mailed on October 4, 2004. Claims 31 and 35 have been amended for clarity. Claims 5, 6, 30, 34 and 38 have been canceled. Claims 1-4, 7-29, 31-33, 35-37, 39-41 are now pending in this application. Reconsideration on the basis of the above amendments and remarks below is kindly requested.

The undersigned attorney wishes to thank the Examiner for the telephonic interview on December 8, 2004, where all the rejections as set forth in this Office action were discussed.

The Examiner objected to the Reissue Declarations as being defective. Substitute Declarations for the Reissued Patent application are enclosed herein to overcome this objection.

The Examiner objected to claims 1-4, 7-29, 31-33, 35, 37, 39-41 as being based upon a defective reissue declaration under 35 U.S.C. §251. As discussed, substitute declarations overcoming the objection over 35 U.S.C. §251 are being submitted herewith. As such, applicants submits that the rejection to claims 1-4, 7-29, 31-33, 35-37, 39-41 under 35 U.S.C. §251 has been overcome.

The Examiner objected to claim 39 under 35 U.S.C. §251 as broadening a reissue application filed outside the two year statutory period. Applicants respectively disagree. This reissue application was filed within the two year statutory period. Specifically, the patent being reissued, namely, U.S. Patent No. 5,791,422 was issued on August 11, 1998 and this reissue application was filed on August 10, 2000. As such,

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applicants submit that the rejection to claim 39 under 35 U.S.C. §251 should be withdrawn.

The Examiner rejected claim 39 under 35 U.S.C. §112, first paragraph as failing to comply to the description requirement in that claim 39 requires that the filler comprises in the range of 19 to 100 percent by weight spherical cast tungsten carbide particles and the specification does not set forth the lower limit of 19 percent by weight. On column 6, lines 6-10 of the application as issued, it is stated that the "tungsten carbide portion of the filler comprises spherical cast tungsten carbide in the range from 10 to 100 percent by weight, . . .". Thus, and as discussed during the telephonic interview with the Examiner, the specification does provide support for a lower limit between 10 to 100 percent and thus provides support for a lower limit of 19 percent by weight spherical cast tungsten carbide particles. As such, applicants submit that the rejection to claim 39 under 35 U.S.C. §112, first paragraph should be withdrawn.

The Examiner rejected claims 31 and 35 under 35 U.S.C. §112, second paragraph as being indefinite in that they set forth size ranges for further tungsten carbide particles outside the ranges of their independent claims. Claims 31 and 35 set forth the ranges in addition to the ranges claimed in their independent claim. Claims 31 and 35 have been amended for clarity accordingly. Support for these additional ranges as found on the patent as issued on column 6, lines 10 to 19.

The Examiner requested that claims 5, 6, 30, 34 and 38 be cancelled. These claims have been cancelled.

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The rejections and objections to all claims pending in this application are now believed to be overcome and this application is now believed to be in condition for allowance. Should the Examiner have any remaining questions or concerns about the allowability of the application, the Examiner is kindly requested to call the undersigned attorney to discuss them.

Respectfully submitted,
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